

SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/111,296 08/23/93 HOOD

L 37231.P004

33M1/0505
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EXAMINER
HARRIS, S

ART UNIT	PAPER NUMBER
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3309

DATE MAILED: 05/05/95

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☒ Responsive to communication filed on 2-27-95 ☒ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), days from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. ☒ Notice of References Cited by Examiner, PTO-892. 2. ☐ Notice of Draftsman's Patent Drawing Review, PTO-948.
3. ☐ Notice of Art Cited by Applicant, PTO-1449. 4. ☐ Notice of Informal Patent Application, PTO-152.
5. ☐ Information on How to Effect Drawing Changes, PTO-1474. 6. ☐

Part II SUMMARY OF ACTION

1. ☒ Claims 1-50 are pending in the application.
- Of the above, claims 1-32 and 38-50 are withdrawn from consideration.
2. ☐ Claims _____ have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☒ Claims 33-37 are rejected.
5. ☐ Claims _____ are objected to.
6. ☐ Claims _____ are subject to restriction or election requirement.
7. ☐ This application has been filed with Informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).
12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other _____

EXAMINER'S ACTION

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Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 33-37 are rejected under 35 U.S.C. § 102(b) as being anticipated by Schachar. Schachar discloses the method for reshaping the cornea as claimed including the steps of placing an electrode in contact with the cornea, sending a current therethrough, repeating such steps, and arranging the denatured areas in a circular pattern (see col.3 lines 49-57).

Information Disclosure Statement

3. The information disclosure statement filed 11-25-94, as Paper No. 6 fails to comply with 37 CFR § 1.97(c) because it lacks either a certification as specified in 37 CFR § 1.97(e), or the fee set forth in 37 CFR § 1.17(p). It has been placed in the application file, but the information referred to therein has not been considered as to the merits.

Also, the Applicants are respectfully reminded of their duty to disclose all prior art pertinent to the claimed invention, and

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it is noted that patent no. 4907585 to Schachar was not disclosed, though it was in copending application serial number 08/171225, directed toward similar subject matter.

Response to Amendment

4. Applicant's arguments with respect to claims 33-37 have been considered but are deemed to be moot in view of the new grounds of rejection.

Conclusion

5. Applicant's amendment necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL**. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sonya Harris-Ogugua whose telephone number is (703) 308-2216.



S. Ogugua
April 28, 1995



Stephen C. Pellegrino
Supervisory Patent Examiner
Group 330